

Practitioner's note: advising a trader in Zug

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The practitioner who advises a commodity trader in Zug must combine several fields of law. The corporate and tax structure of the trader, with its principal company in Zug, its subsidiaries and offices abroad and its intra-group arrangements, must satisfy the international standards on substance and transfer pricing described in Part C. The trading contracts, usually governed by English law and subject to arbitration in London or to the standard terms of the trade associations, must be negotiated and enforced. The financing arrangements with the banks, examined in Part E, must be structured and documented. The sanctions and export control rules of Switzerland, the European Union, the United Kingdom and the United States must be applied to every transaction. The anti-corruption rules, including Article 102 of the Swiss Criminal Code, the United States Foreign Corrupt Practices Act and the United Kingdom Bribery Act, must be reflected in the trader's compliance programme. The anti-money-laundering rules apply to the trader's banks and, in certain cases, to the trader itself.

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The convictions of Glencore in 2022 and 2024 show the consequences of failures in these fields. For the trader, the most important lesson is that its exposure is global. A bribe paid by an agent in West Africa, a manipulation of a price benchmark in a port in the United States or a breach of sanctions in a transaction with Russia can lead to proceedings in several jurisdictions at once, with penalties that run into hundreds of millions of dollars and with monitors who oversee the company's compliance for years. For the practitioner, the lesson is that the advice given in Zug must anticipate the view of prosecutors in Washington, London, Brasília and Bern. Part E examines these questions in detail.

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